

LEGISLATIVE BILL 817

Approved by the Governor April 13, 2010

Introduced by Rogert, 16; Christensen, 44; McCoy, 39; Gloor, 35; Pirsch, 4; Coash, 27.

FOR AN ACT relating to law enforcement; to amend sections 2-32,101, 69-2403, 69-2427, 69-2431, and 69-2433, Reissue Revised Statutes of Nebraska, and sections 18-1703 and 28-1212.04, Revised Statutes Supplement, 2009; to authorize natural resources districts to employ law enforcement personnel or private security services; to change city and village powers regarding registration of handguns; to change prohibitions regarding the discharge of firearms in certain cities, villages, and counties; to exempt permitholders under the Concealed Handgun Permit Act and peace officers from the requirement to obtain a certificate to purchase a handgun; to provide a duty for the Nebraska State Patrol under the act; to change requirements for a permit to carry a concealed handgun; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 2-32,101, Reissue Revised Statutes of Nebraska, is amended to read:

2-32,101 (1) Any law enforcement officer, including, but not limited to, any Game and Parks Commission conservation officer, local police officer, member of the Nebraska State Patrol, or sheriff or deputy sheriff, is authorized to enforce the provisions of sections 2-3292 to 2-32,100 and any rules and regulations adopted and promulgated pursuant to such sections. A district shall not employ law enforcement personnel and shall be prohibited from expending any funds for such purpose except as provided in subsection (2) of this section. Each district shall provide a copy of its rules and regulations to the appropriate law enforcement officer. Any law enforcement officer may arrest and detain any person committing a violation of the rules and regulations in a recreation area or committing any misdemeanor or felony as provided by the laws of this state.

(2) A district may expend funds to enter into agreements pursuant to the Interlocal Cooperation Act for the services of certified law enforcement personnel or to contract for the services of private security services to patrol and protect district-owned or district-managed recreation areas and to assist law enforcement officers in enforcing sections 2-3292 to 2-32,100 and any rules and regulations adopted and promulgated pursuant to such sections.

Sec. 2. Section 18-1703, Revised Statutes Supplement, 2009, is amended to read:

18-1703 Cities and villages shall not have the power to regulate the ownership, possession, or transportation of a concealed handgun, as such ownership, possession, or transportation is authorized under the Concealed Handgun Permit Act, except as expressly provided by state law, and shall not have the power to require registration of a concealed handgun owned, possessed, or transported by a permitholder under the act. Any existing city or village ordinance, permit, or regulation regulating the ownership, possession, or transportation of a concealed handgun, as such ownership, possession, or transportation is authorized under the act, except as expressly provided under state law, and any existing city or village ordinance, permit, or regulation requiring the registration of a concealed handgun owned, possessed, or transported by a permitholder under the act, is declared to be null and void as against any permitholder possessing a valid permit under the act.

Sec. 3. Section 28-1212.04, Revised Statutes Supplement, 2009, is amended to read:

28-1212.04 Any person, within the territorial boundaries of any city, ~~incorporated village,~~ of the first class or county containing a city of the metropolitan class or primary class, who unlawfully, knowingly, and intentionally or recklessly discharges a firearm, while in any motor vehicle or in the proximity of any motor vehicle that such person has just exited, at or in the general direction of any person, dwelling, building, structure, occupied motor vehicle, occupied aircraft, inhabited motor home as defined in section 71-4603, or inhabited camper unit as defined in section 60-1801, is guilty of a Class IC felony.

Sec. 4. Section 69-2403, Reissue Revised Statutes of Nebraska, is amended to read:

69-2403 (1) Except as provided in this section and section 69-2409,

a person shall not purchase, lease, rent, or receive transfer of a handgun until he or she has obtained a certificate in accordance with section 69-2404. Except as provided in this section and section 69-2409, a person shall not sell, lease, rent, or transfer a handgun to a person who has not obtained a certificate.

(2) The certificate shall not be required if:

~~(1)~~ (a) The person acquiring the handgun is a licensed firearms dealer under federal law;

~~(2)~~ (b) The handgun is an antique handgun;

~~(3)~~ (c) The person acquiring the handgun is authorized to do so on behalf of a law enforcement agency;

~~(4)~~ (d) The transfer is a temporary transfer of a handgun and the transferee remains ~~(a)~~ (i) in the line of sight of the transferor or ~~(b)~~ (ii) within the premises of an established shooting facility; ~~or~~

~~(5)~~ (e) The transfer is between a person and his or her spouse, sibling, parent, child, aunt, uncle, niece, nephew, or grandparent; ~~-~~

(f) The person acquiring the handgun is a holder of a valid permit under the Concealed Handgun Permit Act; or

(g) The person acquiring the handgun is a peace officer as defined in section 69-2429.

Sec. 5. Section 69-2427, Reissue Revised Statutes of Nebraska, is amended to read:

69-2427 Sections 69-2427 to 69-2448 and section 6 of this act shall be known and may be cited as the Concealed Handgun Permit Act.

Sec. 6. The Nebraska State Patrol shall inform each permitholder, upon the issuance or renewal of a permit to carry a concealed handgun, that if a handgun, or other firearm, owned by such permitholder is lost or stolen, the permitholder should notify his or her county sheriff or local police department of that fact.

Sec. 7. Section 69-2431, Reissue Revised Statutes of Nebraska, is amended to read:

69-2431 In order to insure an applicant's initial compliance with sections 69-2430 and 69-2433, the applicant for a permit to carry a concealed handgun shall be fingerprinted by the Nebraska State Patrol and a check made of his or her criminal history record information maintained by the Federal Bureau of Investigation through the Nebraska State Patrol. The criminal history record information check under the Concealed Handgun Permit Act is for initial compliance only. In order to insure continuing compliance with sections 69-2430 and 69-2433 and compliance for renewal pursuant to section 69-2436, a check shall be made of a permitholder's criminal history record information through the National Instant Criminal Background Check System.

Sec. 8. Section 69-2433, Reissue Revised Statutes of Nebraska, is amended to read:

69-2433 An applicant shall:

(1) Be at least twenty-one years of age;

(2) Not be prohibited from purchasing or possessing a handgun by 18 U.S.C. 922, as such section existed on January 1, 2005;

(3) Possess the same powers of eyesight as required under section 60-4,118 for a Class O operator's license. If an applicant does not possess a current Nebraska motor vehicle operator's license, the applicant may present a current optometrist's or ophthalmologist's statement certifying the vision reading obtained when testing the applicant. If such certified vision reading meets the vision requirements prescribed by section 60-4,118 for a Class O operator's license, the vision requirements of this subdivision shall have been met;

(4) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a felony ~~or a crime of violence~~ under the laws of this state or under the laws of any other jurisdiction;

(5) Not have pled guilty to, not have pled nolo contendere to, or not have been convicted of a misdemeanor crime of violence under the laws of this state or under the laws of any other jurisdiction within the ten years immediately preceding the date of application;

~~(6)~~ (6) Not have been found in the previous ten years to be a mentally ill and dangerous person under the Nebraska Mental Health Commitment Act or a similar law of another jurisdiction or not be currently adjudged mentally incompetent;

~~(7)~~ (a) (7)(a) Have been a resident of this state for at least one hundred eighty days. For purposes of this section, resident does not include an applicant who maintains a residence in another state and claims that residence for voting or tax purposes except as provided in subdivision (b) of this subdivision; or

(b) If an applicant is a member of the United States Armed Forces,

such applicant shall be considered a resident of this state for purposes of this section after he or she has been stationed at a military installation in this state pursuant to permanent duty station orders even though he or she maintains a residence in another state and claims that residence for voting or tax purposes;

~~(7)~~ (8) Have had no violations of any law of this state relating to firearms, unlawful use of a weapon, or controlled substances or of any similar laws of another jurisdiction in the ten years preceding the date of application;

~~(8)~~ (9) Not be on parole, probation, house arrest, or work release;

~~(9)~~ (10) Be a citizen of the United States; and

~~(10)~~ (11) Provide proof of training.

Sec. 9. Original sections 2-32,101, 69-2403, 69-2427, 69-2431, and 69-2433, Reissue Revised Statutes of Nebraska, and sections 18-1703 and 28-1212.04, Revised Statutes Supplement, 2009, are repealed.